



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date:	01/30/13	Bill No:	Assembly Bill 210
Tax Program:	Transactions and Use	Author:	Wieckowski
Sponsor:	Alameda County	Code Sections:	RTC 7291
Related Bills:	AB 431 (Mullin) SB 1 (Steinberg)	Effective Date:	01/01/14

BILL SUMMARY

This bill extends the authority of Alameda County to impose a countywide transportation program transactions and use tax (district tax), until January 1, 2017. The tax may exceed the existing 2 percent rate limitation.

ANALYSIS

CURRENT LAW

The State Board of Equalization (BOE) administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law. By law, cities and counties contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**¹ authorizes cities and counties to impose local sales and use tax. This tax rate is fixed at 1 percent of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Of this 1 percent, cities and counties use 0.75 percent to support general operations. The remaining 0.25 percent is designated by statute for county transportation purposes, but restricted for road maintenance or the operation of transit systems. The counties receive the 0.25 percent tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. In California, all cities and counties impose Bradley-Burns local taxes at the uniform rate of 1 percent.

The **Transactions and Use Tax Law**² and the **Additional Local Taxes Law**³ authorize cities and counties to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125 percent, or multiples of 0.125 percent, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125 percent, or multiples of 0.125 percent, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction

¹ Part 1.5, commencing with Revenue and Taxation Code Section 7200

² Part 1.6, commencing with Revenue and Taxation Code Section 7251

³ Part 1.7, commencing with Revenue and Taxation Code Section 7280

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cannot exceed 2 percent⁴ (with the exception of Los Angeles County⁵).

In addition, Section 7291 authorizes Alameda County to impose a district tax for transportation programs at a capped rate of 0.50 percent, which, in combination, with other district taxes, would exceed the 2 percent limitation established in existing law, if all of the following conditions are met:

- (1) Alameda County adopts an ordinance proposing the district tax by any applicable voting requirements;
- (2) the proposed ordinance is submitted to the electorate on the November 6, 2012, general election ballot and is approved by two-thirds of the voters voting on the ordinance; and,
- (3) the district tax conforms to the Transactions and Use Tax Law.

If the ordinance is not approved by the electorate by November 6, 2012, Section 7291 will be repealed as of January 1, 2014.

PROPOSED LAW

This bill extends Alameda County's authority to impose a district tax for countywide transportation programs until January 1, 2017. The bill substitutes the November 6, 2012 general election ballot requirement with a November general election ballot. However, the proposed district tax ordinance must be approved by the voters as of January 1, 2017, or the bill's provisions will be repealed as of that same date.

If enacted, the bill takes effect on January 1, 2014.

BACKGROUND

Assembly Bill 1086 (Wieckowski, Ch. 327, Stats. 2011) enacted the authorizing statute for Alameda County to impose a district tax for transportation purposes that would be excluded from the 2 percent rate limitation. The bill required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 general election ballot. Failure to enact the ordinance by that date will result in the sunset of the provisions on January 1, 2014.

Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14 percent short of the 66.6 percent super-majority needed to pass.

DISTRICT TAXES CURRENTLY ADMINISTERED BY THE BOE

Beginning April 1, 2013, there will be 169 local jurisdictions (city, county, and special purpose entity) imposing a district tax for general or specific purposes. Of the 169 jurisdictions, 43 are county-imposed taxes and 126 are city-imposed taxes. Of the 43 county-imposed taxes, 28 are imposed for transportation purposes.

Currently, the district tax rates vary from 0.10 percent to 1 percent. The combined state, local and district tax rates range from 7.625 to 9.50 percent, with the exception of the cities of La Mirada, Pico Rivera, and South Gate (10%) in Los Angeles County.

⁴ Revenue and Taxation Code Section 7251.1.

⁵ In 2003, SB 314 (Chapter 785, Murray) authorized the Los Angeles Metropolitan Transportation Authority to impose a 0.50 percent district tax for specific transportation projects, and excluded that 0.50 percent tax from the 2 percent combined rate limitation established by RTC 7251.1. In 2008, voters within Los Angeles County approved the additional 0.50 percent effective July 1, 2009, which raised the tax rate in the cities of South Gate and Pico Rivera to 10 percent. Effective April 1, 2013, the tax rate in the City of La Mirada (in Los Angeles County) also will be 10 percent.

A listing of the district taxes, rates, and effective dates is available on the BOE's website: www.boe.ca.gov/sutax/pdf/districtratelist.pdf.

COMMENTS

- 1. Sponsor and Purpose.** The Alameda County Transportation Commission is sponsoring this bill in an effort to provide additional funding for transportation programs and services for Alameda County. According to the author's office, in November 2010, voters within the city of Union City approved an additional 0.50 percent tax effective April 1, 2011. Consequently, Alameda County cannot enact a new district tax because Union City's 0.50 percent tax, combined with the county's district taxes, already reaches the maximum 2 percent limit.
- 2. Current district taxes levied within Alameda County.** Currently, Alameda County has five district taxes imposed within its borders—three county-wide taxes and two city-wide taxes. For the three county-wide taxes, the tax rates are 0.50 percent each for a total county-wide tax rate of 1.50 percent. Thus, the total state, local, and district tax rate imposed within the unincorporated area of Alameda County is 9 percent. The two cities that impose a district tax are San Leandro, at a rate of 0.25 percent and Union City, at a rate of 0.50 percent, with a total state, local, and district tax rate of 9.25 and 9.50 percent, respectively.

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2 percent within the county. The city district taxes count against the 2 percent limit. Because Union City imposes a tax of 0.50 percent, Alameda County may not enact a new district tax without this bill.

Of the three county-wide taxes, two are imposed for transportation purposes and one is imposed for essential health care services. The Alameda County Transportation Improvement Authority (ACTIA) and the Bay Area Rapid Transit (BART) levy two 0.50 percent district transportation taxes. In 2010, the ACTIA merged with the Alameda County Congestion Management Agency (ACCMA) to form the new county-wide transportation agency—the Alameda County Transportation Commission (Alameda CTC). The Alameda CTC is a joint powers authority whose members include the 14 cities in Alameda County, the County of Alameda, Alameda County Transit, BART, ACCMA, and ACTIA.

- 3. Related legislation.** AB 431 (Mullin) authorizes a transportation planning agency to impose a district tax within all or a specified portion of its jurisdiction, with not less than 75 percent of available net revenues spent equally among transportation, affordable housing, and parks and open space.

SB 1 (Steinberg) authorizes a local government of a Sustainable Communities Investment Area, as described, to establish a Sustainable Communities Investment Authority to impose a district tax within that area.

COST ESTIMATE

This bill does not increase administrative costs to the BOE because it only authorizes Alameda County to impose a tax. However, if Alameda County's voters approve the tax, the county would be required to contract with the BOE for its preparation costs, as well as ongoing costs of BOE's services to administer the ordinance.

Based on the BOE's experience with similar county-imposed taxes, the one-time preparatory costs typically range from \$12,000 to \$138,000. Preparatory costs are the

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actual costs to update publications and returns, perform programming for data processing, develop instructions for both BOE staff and taxpayers, and notify taxpayers. Preparatory costs also include necessary costs from other state agencies (e.g., California Department of Motor Vehicles costs to train staff and program computers). Various factors may impact the BOE's preparatory costs. For example, the BOE mails a special notice to taxpayers in the affected county, including adjacent areas. If a county borders jurisdictions that have a large number of seller's permits, the BOE's mailing costs could be substantially higher.

In addition, because of certain fixed costs, the preparatory costs can vary depending on the number of new district taxes implemented at the same time. For example, the cost of updating a publication and return to add four new taxes in four separate districts is similar to the cost to add one new tax in one district. However, because the four new districts could share the costs, the per district cost would be less than if only one district added a new tax. Thus, the preparatory costs can vary depending on the number of district taxes being implemented at the same time.

Currently, Alameda County has three district taxes imposed at a rate of 0.50 percent in each district. For the fiscal year 2012-13, the BOE's estimated administrative costs are: \$1,243,000 for the Alameda County Transportation Improvement Authority, \$1,242,000 for the Alameda County Essential Health Care Services Transactions and Use Tax, and \$2,169,000 for Bay Area Rapid Transit District.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

Alameda County's taxable sales totaled \$23.4 billion in 2011. We assume that Alameda County's taxable sales follow a pattern similar to the Department of Finance's (DOF) forecast of overall statewide taxable sales. DOF's current revenue forecast assumes that taxable sales increased by 7.8 percent in 2012. The DOF further projects that taxable sales will increase 6.1 percent in 2013, 7.1 percent in 2014, 7.5 percent in 2015, and 5.3 percent in 2016. Based on DOF's forecast, we estimate Alameda County's taxable sales to be \$26.3 billion for the fiscal year 2014-15, and \$28.1 billion for the fiscal year 2015-16.

REVENUE SUMMARY

Assuming the voters approve the tax authorized by the proposed law, this bill would generate the following additional revenue for Alameda County:

- For fiscal year 2014-15, assuming a January 1, 2015 operative date, a 0.5 percent tax increase generates \$66 million (\$13.2 billion X 0.5%).
- For fiscal year 2015-16, a 0.5 percent tax increase generates \$140 million (\$28.0 billion X 0.5%).

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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